

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

In the Matter of)	
Requests for Waiver of)	CS Docket No. 97-80
47 C.F.R. § 76.1204(a)(1))	
)	
Coon Creek Telephone Company)	CSR-7220-Z
ComSouth Telesys, Inc.)	CSR-7223-Z
Innovative Cable TV, St. Thomas, St. John & St. Croix)	CSR-7224-Z
XIT Telecommunications & Technology LTD)	CSR-7228-Z

COMMENTS OF MOTOROLA, INC.

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July 5, 2007

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COMMENTS OF MOTOROLA, INC.

Motorola, Inc. (“Motorola”) hereby submits these comments in response to the Media Bureau’s Public Notice in the above-captioned proceedings.¹ Coon Creek, ComSouth Telesys, Innovative Cable, and XIT have filed separate requests for temporary waivers of the Commission’s integration ban rule for set-top boxes manufactured by Motorola (“Waiver Requests”).² Motorola strongly supports these Waiver Requests and urges the Commission to give prompt approval to these time-limited requests for the reasons set forth below and those identified in the Waiver Requests.

¹ See Public Notice, Special Relief and Show Cause Petitions, Report No. 0212 (June 15, 2007).

² See *In the Matter of Coon Creek Telephone Company’s Petition for Waiver of 47 C.F.R. § 76.1204(a)(1)*, CSR-7220-Z, CS Dkt. No. 97-80 (May 11, 2007) (“Coon Creek Waiver”) (requesting a waiver for Widevine-enabled set-top boxes); *In the Matter of ComSouth Telesys’ Request for Waiver of 47 C.F.R. § 76.1204(a)(1)*, CSR-7223-Z, CS Dkt. No. 97-80 (May 16, 2007) (“ComSouth Telesys Waiver”) (requesting waiver for DCT-2000 through July 1, 2009); *In the Matter of Innovative Cable TV, St-Thomas, St. John & St. Croix, Request for Waiver of 47 C.F.R. § 76.1204(a)(1)*, CSR-7224-Z, CS Dkt. No. 97-80 (May 23, 2007) (“Innovative Cable Waiver”) (requesting waiver for DCT-1000 and DCT-2000 set-top boxes until December 31, 2009); *In the Matter of Innovative XIT Telecommunications & Technology LTD’s Petition for Waiver of 47 C.F.R. § 76.1204(a)(1)*, CSR-7228-Z, CS Dkt. No. 97-80 (May 30, 2007) (“XIT Waiver”) (requesting waiver for DCT-700 until December 31, 2007).

XIT, Innovative Cable, and ComSouth Telesys Waiver Requests

The Waiver Requests filed by XIT, Innovative Cable, and ComSouth Telesys primarily cover low-cost, limited-capability set-top boxes that have been or continue to be manufactured by Motorola, including:

- The DCT-700, which includes a single digital tuner, an RF output and a composite video output, and right and left audio channel outputs.³ Motorola continues to manufacture the DCT-700.⁴
- The DCT-1000 and DCT-2000, which include this basic functionality plus an analog tuner.⁵ Motorola no longer manufactures the DCT-1000 and DCT-2000.⁶

These devices have the capability to allow cable customers with analog television sets to access digitally-delivered programming and services (such as video-on-demand, pay-per-view programming, and an electronic program guide), as well as closed captioning, parental controls, and emergency alert messages.⁷ None of these devices supports high-definition (“HD”) programming, digital video recording (“DVR”), Internet access, or other advanced capabilities.

³ See <http://broadband.motorola.com/consumers/products/dct700/default.asp> (detailing capabilities of DCT-700).

⁴ Motorola continues to make the DCT-700 available to U.S. cable operators that have received waivers of the integration ban for that set-top box, as well as cable operators in other countries that continue to deploy the box.

⁵ See, e.g., Innovative Cable Waiver at Ex. 1 (detailing capabilities of DCT-1000 and DCT-2000).

⁶ To the extent petitioners wish to redeploy previously used DCT series boxes, such an approach would be consistent with Commission rules and precedent. See *In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, Order on Reconsideration, 14 FCC Rcd. 7596 ¶ 35 (1999) (stating that integration ban rule is not “intended to render equipment obsolete that has already been manufactured and deployed and still has a useful life”); see also *In the Matter of Armstrong Utilities, Inc. et al. Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, CSR-7112-Z et al., CS Dkt. No. 97-80, DA 07-2916 ¶ 56 (rel. June 29, 2007) (clarifying that “boxes that are returned to an MVPD’s own inventory may be redeployed by that MVPD”). Thus, with respect to any DCT series boxes referenced in these Waiver Requests that petitioners have placed in service prior to July 1, 2007, no waiver is needed.

⁷ Consistent with what Motorola has told the Commission previously, the DCT-1000 and DCT-2000 set-top boxes have two-way capability. See Motorola Comments, filed in CSR-7212-Z et seq., CS Dkt. No. 97-80 at 2 n.4 (June 14, 2007). However, it appears that Innovative Cable is not utilizing that capability in its cable systems.

These boxes are among the lowest-cost, most limited-capability devices ever built by Motorola for U.S. cable operators.⁸

The DCT-700 is deployed in digital cable systems that simulcast analog channels in digital; hence, this device can rely exclusively on a digital tuner to access programming services carried in those systems. In contrast, the DCT-1000 and DCT-2000 are typically used in cable systems that have yet to make the conversion to all-digital simulcasting (and will not do so prior to the effective date of the integration ban). Rather, in those systems, programming services are carried in either analog or digital, so the low-cost set-top box must include both an analog and digital tuner to access those services.

The DCT-700 and the other limited-capability boxes provide an affordable way for millions of cable customers to access a wide array of digital programming and services, and have been popular with cable customers.⁹ Waiver petitioners underscore the importance of these boxes to transitioning their customers to digital and migrating their systems to all-digital networks.¹⁰

⁸ The Commission expressly invited waiver requests for low-cost, limited-capability set-top boxes in its 2005 Order. *See In the Matter of Implementation of Section 304 of the Telecommunications Act of 1996: Commercial Availability of Navigation Devices*, Second Report & Order, 20 FCC Rcd. 6794 ¶ 37 (2005) (“2005 Integration Ban Order”).

⁹ *See, e.g.*, Motorola Comments, filed in CSR-7109-Z *et al.*, CS Dkt. No. 97-80, at 3 (Mar. 5, 2007) (describing success of DCT-700).

¹⁰ See XIT Waiver at 6; Innovative Cable Waiver at 5. In its GCI waiver order, the Media Bureau approved a waiver for the DCT-700, DCT-1000, and DCT-2000. *See In the Matter of GCI Cable Inc.’s Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, Mem. Opin. & Order, 22 FCC Rcd. 8576 ¶ 17 (2007) (“GCI Waiver Order”). Moreover, in its BendBroadband waiver order, the Media Bureau acknowledged the importance of the DCT-700 to cable’s transition efforts. *See In the Matter of BendBroadband’s Request for Waiver of Section 76.1204(a)(1) of the Commission’s Rules*, Mem. Opin. & Order, 22 FCC Rcd. 209 ¶ 24 (2007) (“BendBroadband Waiver Order”) (recognizing that conditional grant of a waiver for the DCT-700 would “facilitate BendBroadband’s rapid transition to an all-digital network (*i.e.*, by 2008)”; *see also* 2005 Integration Ban Order ¶ 37 (“The availability of low-cost boxes will further the cable industry’s migration to all-digital networks . . . ”)).

The Media Bureau has now issued several waiver orders to operators that commit to go all-digital by or before February 17, 2009.¹¹ Relying on this waiver precedent, XIT is seeking a temporary waiver so that it can complete its transition to an all-digital network by December 31, 2007.¹² Thus, the XIT Waiver can and should be granted on this precedent alone.¹³

Innovative Cable bases its waiver request on (1) its commitment to go all digital by December 31, 2009;¹⁴ and (2) the significant financial difficulties it already faces and the additional financial hardship it would confront in complying with the integration ban.¹⁵ Innovative Cable notes, for example, that its parent companies have filed for bankruptcy, and that imposition of the integration ban at this time would greatly complicate its digital transition plans.¹⁶ As Innovative Cable points out, the Media Bureau granted a waiver to Charter based on

¹¹ See *BendBroadband Waiver Order* ¶ 24 (granting BendBroadband's waiver request conditioned on BendBroadband going all-digital by 2008); *GCI Waiver Order* ¶ 17 (granting GCI's waiver request conditioned on GCI going all-digital by February 17, 2009); *In the Matter of OneSource's Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, Mem. Opin. & Order, 22 FCC Rcd. 8567 ¶ 16 (2007) (granting OneSource's request conditioned on OneSource going all-digital by December 31, 2007); *In the Matter of Consolidated Requests for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, Mem. Opin. & Order, CS Dkt. No. 97-80, DA 07-2921 (rel. June 29, 2007) ("Omnibus Waiver Order") (granting relief to various operators that commit to go all digital by or before February 17, 2009).

¹² See XIT Waiver at 1. The *Omnibus Waiver Order* issued by the Media Bureau on June 29, 2007 lists XIT as a waiver recipient. See *Omnibus Waiver Order* at Appendix. However, it does not appear that the instant XIT Waiver Request is covered by the *Omnibus Waiver Order* since this waiver involves different XIT systems than those covered by the *Omnibus Waiver Order*, see XIT Waiver at 3 n.8, and has a different CSR number (*i.e.*, this waiver request is CSR-7228-Z, while the XIT waiver covered by the *Omnibus Waiver Order* is CSR-7292-Z). If the *Omnibus Waiver Order* does in fact cover this XIT waiver, then Motorola supports that decision.

¹³ XIT also notes that denial of its waiver request "could delay, perhaps indefinitely, the planned upgrade" to digital. See XIT Waiver at 6.

¹⁴ See Innovative Cable Waiver at 6. Innovative Cable notes that it will take longer than BendBroadband, GCI, and OneSource to complete its transition to digital due to special circumstances. Among other things, it will need to invest in significant plant and equipment upgrades, convince a large number of analog customers to take digital service, and obtain permission from programmers to simulcast programming services in analog and digital during the transition period. See *id.* at 5-6; see also *In the Matter of Guam Cablevision, LLC's Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, Mem. Opin. & Order, CSR-7193-Z, CS Dkt. No. 97-80, DA 07-2917 (rel. June 29, 2007) (granting waiver based on "unique circumstances" facing operator).

¹⁵ See Innovative Cable Waiver at 7.

¹⁶ See *id.* at 7, 9-10.

the operator's financial difficulties,¹⁷ and should now provide similar relief to this petitioner, particularly when considered with the aforementioned commitment to go all digital.

ComSouth Telesys, in turn, seeks a waiver of the integration ban based on the competitive harm associated with complying with the ban at this time.¹⁸ ComSouth Telesys notes, for example, that compliance costs will make it less price competitive with DBS providers (who do not have to comply with the integration ban) and will slow the introduction of new service offerings.¹⁹

The record in the navigation device docket includes detailed evidence on CableCARD-related costs. For example, the DCT-700 cannot accommodate the CableCARD; rather, an entirely different set-top box, with a larger chassis, greater power supply, and a redesign of the motherboard, among other things, is required.²⁰ These modifications plus the CableCARD add significantly to the overall cost of the set-top box. Consequently, and in recognition of the lack of marketplace demand for higher cost boxes with only limited features, the current lowest-cost CableCARD-enabled set-top box Motorola is manufacturing -- the DCH-100 -- costs substantially more than the DCT-700, even in higher volumes.²¹ Motorola is not alone in describing this marketplace reality as Pace and Cisco have also filed comments in this docket

¹⁷ See *In the Matter of Charter Communications Inc.'s Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, Mem. Opin. & Order, 22 FCC Rcd. 8557 ¶ 20 (2007).

¹⁸ See ComSouth Telesys Waiver at 6-7.

¹⁹ See *id.* at 7.

²⁰ See, e.g., Motorola Comments, filed in CSR-7139-Z *et al.*, CS Dkt. No. 97-80, at 5-6 (May 3, 2007); Motorola Comments, filed in CSR-7129-Z *et al.*, CS Dkt. No. 97-80, at 3 (Apr. 2, 2007); Motorola Comments, filed in CSR-7109-Z *et al.*, CS Dkt. No. 97-80, at 4 (Mar. 5, 2007); Motorola Comments, filed in CSR-7012-Z, CS Dkt. No. 97-80, at 3 (Feb. 14, 2007); Motorola Comments, filed in CSR-7012-Z, CS Dkt. No. 97-80, at 4 (June 15, 2006).

²¹ Likewise, these operators will incur significant CableCARD-related costs in the absence of waivers for the DCT-1000 and DCT-2000.

about the prohibitive costs and impracticability of incorporating CableCard technology into their low-cost set-top boxes.²²

Coon Creek Waiver Request

Motorola also supports the Waiver Request filed by Coon Creek. Coon Creek delivers a switched digital video service to customers over a DSL-based platform.²³ Motorola is a leading provider of such DSL-based video solutions, including the VDSL-based video service used by Coon Creek. The Motorola solutions enable providers to deliver the “triple play” of telephony, high-speed Internet, and digital video entertainment services through one common platform using DSL-based applications.²⁴ In its recent *Omnibus Waiver Order*, the Media Bureau granted waivers to rural telco video providers like Coon Creek that already offer an all-digital service.²⁵ Consequently, the Coon Creek Waiver should be granted based on this precedent.

²² See, e.g., Pace Comments, filed in CSR-7012-Z, CS Dkt. No. 97-80, at 3 (Feb. 14, 2007); Cisco Comments, filed in CSR-7012-Z, CS Dkt. No. 97-80, at 2 (Feb. 14, 2007).

²³ Unlike traditional cable television systems, which broadcast programming channels into every home, a system using switched digital video typically delivers one to three channels to a home at any given time. Under this switched video architecture, only the specific channel that a customer has requested to watch is sent to the customer’s set-top box.

²⁴ See <http://www.motorola.com/content.jsp?globalObjectId=5544-8675>.

²⁵ See *Omnibus Waiver Order* ¶ 59 (granting waivers to Iowa Network Service Providers and other all-digital providers).

For the foregoing reasons, and those set forth in the Waiver Requests, Motorola respectfully asks that the Commission approve these requests for waiver of the integration ban.

Respectfully submitted,

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July 5, 2007

CERTIFICATE OF SERVICE

I, Steve B. Sharkey, hereby certify that, on July 5, 2007, copies of the attached Comments of Motorola, Inc. were served via regular mail, on the following:

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